

Part 2

Interpreters for Hearing Impaired

78B-1-201 Definitions.

As used in this part:

- (1) "Appointing authority" means the presiding officer or similar official of any court, board, commission, authority, department, agency, legislative body, or of any proceeding of any nature where a qualified interpreter is required under this part.
- (2) "Hearing-impaired person" and "hearing-impaired parent" means a deaf or hard of hearing person who, because of sensory or environmental conditions, requires the assistance of a qualified interpreter or other special assistance for communicative purposes.
- (3) "Necessary steps" or "necessary services" include provisions of qualified interpreters, lip reading, pen and paper, typewriters, closed-circuit television with closed-caption translations, computers with print-out capability, and telecommunications devices for the deaf or similar devices.
- (4) "Qualified interpreter" means a sign language or oral interpreter as provided in Sections 78B-1-203 and 78B-1-206 of this part.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-202 Proceedings at which interpreter is to be provided for hearing impaired.

- (1) If a hearing-impaired person is a party or witness at any stage of any judicial or quasi-judicial proceeding in this state or in its political subdivisions, including civil and criminal court proceedings, grand jury proceedings, proceedings before a magistrate, juvenile proceedings, adoption proceedings, mental health commitment proceedings, and any proceeding in which a hearing-impaired person may be subjected to confinement or criminal sanction, the appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired person and to interpret the hearing-impaired person's testimony. If the hearing-impaired person does not understand sign language, the appointing authority shall take necessary steps to ensure that the hearing-impaired person may effectively and accurately communicate in the proceeding.
- (2) If a juvenile whose parent or parents are hearing-impaired is brought before a court for any reason whatsoever, the court shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired parent and to interpret the hearing-impaired parent's testimony. If the hearing-impaired parent or parents do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that the hearing-impaired person may effectively and accurately communicate in the proceeding.
- (3) In any hearing, proceeding, or other program or activity of any department, board, licensing authority, commission, or administrative agency of the state or of its political subdivisions, the appointing authority shall appoint and pay for a qualified interpreter for the hearing-impaired participants if the interpreter is not otherwise compensated for those services. If the hearing-impaired participants do not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that hearing-impaired persons may effectively and accurately communicate in the proceeding.
- (4) If a hearing-impaired person is a witness before any legislative committee or subcommittee, or legislative research or interim committee or subcommittee or commission authorized by the state Legislature or by the legislative body of any political subdivision of the state, the

appointing authority shall appoint and pay for a qualified interpreter to interpret the proceedings to the hearing-impaired person and to interpret the hearing-impaired person's testimony. If the hearing-impaired witness does not understand sign language, the appointing authority shall take any reasonable, necessary steps to ensure that hearing-impaired witness may effectively and accurately communicate in the proceeding.

- (5) If it is the policy and practice of a court of this state or of its political subdivisions to appoint counsel for indigent people, the appointing authority shall appoint and pay for a qualified interpreter or other necessary services for hearing-impaired, indigent people to assist in communication with counsel in all phases of the preparation and presentation of the case.
- (6) If a hearing-impaired person is involved in administrative, legislative, or judicial proceedings, the appointing authority shall recognize that family relationship between the particular hearing-impaired person and an interpreter may constitute a possible conflict of interest and select a qualified interpreter who will be impartial in the proceedings.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-203 Effectiveness of interpreter determined.

- (1) Before appointing an interpreter, the appointing authority shall make a preliminary determination, on the basis of the proficiency level established by the Utah State Office of Rehabilitation created in Section 35A-1-202 and on the basis of the hearing-impaired person's testimony, that the interpreter is able to accurately communicate with and translate information to and from the hearing-impaired person involved.
- (2) If the interpreter is not able to provide effective communication with the hearing-impaired person, the appointing authority shall appoint another qualified interpreter.

Amended by Chapter 271, 2016 General Session

78B-1-204 Appointment of more qualified interpreter.

If a qualified interpreter is unable to render a satisfactory interpretation, the appointing authority shall appoint a more qualified interpreter.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-205 Readiness of interpreter prerequisite to commencement of proceeding.

If an interpreter is required to be appointed under this part, the appointing authority may not commence proceedings until the appointed interpreter is in full view of and spatially situated to assure effective communication with the hearing-impaired participants.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-206 List of qualified interpreters -- Use -- Appointment of another.

- (1) The Utah State Office of Rehabilitation created in Section 35A-1-202 shall establish, maintain, update, and distribute a list of qualified interpreters.
- (2)
 - (a) When an interpreter is required under this part, the appointing authority shall use one of the interpreters on the list provided by the Utah State Office of Rehabilitation.
 - (b) If none of the listed interpreters are available or are able to provide effective interpreting with the particular hearing-impaired person, then the appointing authority shall appoint another

qualified interpreter who is able to accurately and simultaneously communicate with and translate information to and from the particular hearing-impaired person involved.

Amended by Chapter 271, 2016 General Session

78B-1-207 Oath of interpreter.

Before he or she begins to interpret, every interpreter appointed under this part shall take an oath that he or she will make a true interpretation in an understandable manner to the best of his or her skills and judgment.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-208 Compensation of interpreter.

- (1) An interpreter appointed under this part is entitled to a reasonable fee for his or her services, including waiting time and reimbursement for necessary travel and subsistence expenses.
- (2) The fee shall be based on a fee schedule for interpreters recommended by the Utah State Office of Rehabilitation created in Section 35A-1-202 or on prevailing market rates.
- (3) Reimbursement for necessary travel and subsistence expenses shall be at rates provided by law for state employees generally.
- (4) Compensation for interpreter services shall be paid by the appointing authority if the interpreter is not otherwise compensated for those services.

Amended by Chapter 271, 2016 General Session

78B-1-209 Waiver of right to interpreter.

The right of a hearing-impaired person to an interpreter may not be waived, except by a hearing-impaired person who requests a waiver in writing. The waiver is subject to the approval of counsel to the hearing-impaired person, if existent, and is subject to the approval of the appointing authority. In no event may the failure of the hearing-impaired person to request an interpreter be considered a waiver of that right.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-210 Privileged communications.

If a hearing-impaired person communicates through an interpreter to any person under such circumstances that the communication would be privileged and the person could not be compelled to testify as to the communications, this privilege shall apply to the interpreter as well.

Renumbered and Amended by Chapter 3, 2008 General Session

78B-1-211 Video recording of testimony of hearing-impaired person.

The appointing authority, on his or her own motion or on the motion of a party to the proceedings, may order that the testimony of the hearing-impaired person and its interpretation be electronically recorded by a video recording device for use in verification of the official transcript of the proceedings.

Renumbered and Amended by Chapter 3, 2008 General Session

